

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

November 12, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 2, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC provides a complete solution for financial transactions that require the determination, calculation, and reporting of U.S sales and use tax. The ABC system automatically determines sales and use tax for all state, county, city, transit or special district taxes associated with a given address. ABC also provides product taxability. ABC determines whether particular products are taxable or exempt, and customers map their products to our product listing.

We are seeking guidance on the taxability of manufacturing equipment. Our specific product taxability questions are detailed below. It would be helpful to us if you indicate any statutes or authorities you use.

**Questions:**

1. Is replacement machinery and equipment subject to sales and use tax?
2. Is machinery and equipment used in a new business subject to sales and use tax?

3. Is machinery and equipment purchased to expand an existing facility to increase production subject to sales and use tax?

Thank you for your assistance in this matter.

**DEPARTMENT'S RESPONSE:**

You have inquired concerning taxability of certain machinery and equipment. Please be advised that, under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

Another exemption concerning machinery and equipment is the graphic arts machinery and equipment exemption. The Department's rules regarding the Graphic Arts Machinery and Equipment Exemption are set forth at 86 Ill. Adm. Code 130.325. Under this exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production.

In addition, the Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305.

Whether the machinery and equipment is "replacement machinery and equipment", used in a new business, or purchased to expand an existing facility to increase production, the taxability of the machinery and equipment is determined by whether it qualifies under one of the categories of machinery and equipment that is exempt from use and occupation taxes.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk